

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

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PLR-124556-11

Date:

October 28, 2011

## LEGEND

X =

A =

B =

C =

D =

E =

State =

Date 1 =

Date 2 =

Date 3 =

Dear \_\_\_\_\_ :

This letter responds to a letter dated June 3, 2011, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to elect to treat A, B, C, D and E as qualified subchapter S subsidiaries (QSubs) as of Date 3.

### FACTS

The information submitted states that X was incorporated under the laws of State and elected to be an S corporation effective on Date 1. On Date 2, X acquired all of the stock of A, B, C, D, and E ("the subsidiaries"). X represents that X's representative timely prepared 5 qualified Subchapter S elections and mailed them to the appropriate IRS Service Center; however, the Service has no record of receiving the elections. X represents that all income tax returns of X and its subsidiaries have been filed as if the qualified Subchapter S elections were effective as of Date 3.

### LAW & ANALYSIS

Section 1361(b)(3)(A) provides that a QSub shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines a QSub as a domestic corporation, which is not an ineligible corporation, if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election. A taxpayer makes a QSub election with respect to a subsidiary by filing a Form 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center.

Section 301.9100-1(c) gives the Commissioner discretion to grant a reasonable extension of time to make a regulatory elections under the rules of §§ 301.9100-2 and 301.9100-3. Under § 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 set forth the standards by which the Commissioner will determine whether to grant an extension of time to make an election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 describes the conditions under which the Commissioner will grant requests for relief that do not meet the requirements of

§ 301.9100-2. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of § 301.9100-3. Accordingly, X is granted an extension of time of 120 days from the date of this letter to elect to treat A, B, C, D, and E as QSubs effective Date 3. The election should be made for each subsidiary by filing Form 8869 with the appropriate service center. A copy of this letter should be attached to the elections and is enclosed for that purpose.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion concerning whether X is a valid S corporation, or whether A, B, C, D, and E are eligible to be QSubs.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Bradford R. Poston  
Senior Counsel, Branch 2  
(Passthroughs & Special Industries)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes

cc: